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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------------|---------------------|------------------|
| 10/661,752 | 09/12/2003 | Darwin Mitchel Hanks | 200313596-1 | 8149 |
| 22879 7590 12/12/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400 | | | | |
| EXAMINER LAMB, CHRISTOPHER RAY | | | | |
| ART UNIT 2627 | | PAPER NUMBER | | |
| NOTIFICATION DATE 12/12/2008 | | DELIVERY MODE ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DARWIN HANKS

Application No. 10/661,752
Technology Center 2600

Mailed: December 12, 2008

Before TOI JOHNSON *Review Paralegal*
JOHNSON, *Review Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 10, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure*

(MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed June 6, 2008 is deficient because the "Evidence Relied Upon" section fails to include the reference Fennema (US 5,164,932) cited on page 5 in the Examiner's Answer's grounds of rejection of 13 under 35 USC § 103(a).

Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue a PTOL-90 citing the missing reference listed under the Evidence Relied Upon section, paragraph (8); and
- 2) for such further action as may be appropriate.

Application No. 10/661,752

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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